IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WA.No. 2478 of 2005

AGAINST THE JUDGEMENT IN WPC.13793/2004 Dated 09/11/2005
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APPELLANT: PETITIONER

C.VIJAYAKUMARAN, HIGHER SECONDARY
SCOOL TEACHER, KCP HIGHER SECONDARY SCHOOL,
KAVASSERY, PALAKKAD DISTRICT.

BY ADV. SRI.KRB.KAIMAL
SRI.K.T.SHYAMKUMAR

RESPONDENTS: RESPONDENTS
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1. THE DIRECTOR OF HIGHER SECONDARY
EDUCATION,
HOUSING BOARD BUILDINGS, SANTHI NAGAR,
THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF HIGHER SECONDARY
EDUCATION,
PALAKKAD.

3. THE MANAGER,
KCP HIGHER SECONDARY SCHOOL,
KAVASSERY, ALATHUR TALUK,
PALAKKAD DISTRICT.

4. K.KRISHANKUTTY, DEPUTY DIRECTOR OF
GENERAL EDUCATION, PALAKKAD,
(GOVERNMENT NOMINEE IN THE SELECTION COMMITTE,
CONSTITUTED FOR APPOINTED TO THE POST OF PRINCIPAL
IN KCP HIGHER SECONDARY SCHOOL, KAVASSERY,
PALAKKAD.

5. P.AYYAPPAN,
TEACHER, KCP HIGHER SECONDARY SCHOOL,
KAVASSERY,
ALATHUR TALUK, PALAKKAD DISTRICT.

R1 AND R2 BY GOVT PLEADER SRI SANDESH RAJ
BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.P.N.RAVEEENDRAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & ANTONY DOMINIC, JJ.

Writ Appeal No 2478 of 2005

Dated: 1st June 2007

JUDGMENT

Radhakrishnan, J.

Writ petition was preferred by the appellant herein seeking a declaration that the Selection Committee constituted by the third respondent for appointment to the post of Principal in KCP Secondary School, Kavassery is illegal and that the fourth respondent is not competent to be included in the committee as Government nominee as per Note (i) of Rule 4 of Chapter XXXII of the Kerala Education Rules. A writ of prohibition prohibiting the fifth respondent from working as Principal of the school as he was appointed by an illegally constituted Selection Committee was also sought for. Further a direction was also sought for to the second respondent to constitute a Selection Committee for appointment to the post of Principal and a writ of certiorari was also prayed for to quash Ext P6 order and also for other consequential reliefs.

2. It is unnecessary to refer to the previous history of this

litigation. The dispute is now between the petitioner and the fifth respondent for appointment to the post of Principal in Higher Secondary School. Selection Committee was constituted by the Manager. Though the constitution of the Selection Committee and the inclusion of the Government nominee was challenged by the petitioner the same was not seriously canvassed before us and therefore the only question to be considered is whether Selection Committee was justified in selecting the fifth respondent in preference to the petitioner. Procedure followed by the Selection Committee has been produced before us by the additional third respondent as Ext R3(b) which is a consolidated mark list prepared by the Selection Committee. Though the Selection Committee has awarded 51.6% marks for the post-graduate qualification of the petitioner, 55.2% marks were awarded to the fifth respondent . For the experience gained petitioner was awarded 6 marks and the fifth respondent was awarded 2 marks. However, for personality, inter-action, presentation, administration and supervision, teaching ability, character and antecedents and overall performance lesser mark was awarded to the petitioner. Ultimately fifth respondent was ranked No.1 in the select list having awarded 98.2 marks and the petitioner

was awarded 74.6% marks. Accepting the report of the Selection Committee the Manager appointed fifth respondent as the Principal of the school.

3. Petitioner could not demonstrate that Selection Committee was biased or that any irrelevant materials were taken into account while conducting selection and preparing the rank list. Since fifth respondent was assigned rank number 1 we find no illegality in the Manager appointing him as Principal of the school. In the absence of any allegation of malafide or bias we have no reason to hold that the Selection Committee has acted illegally or taken any irrelevant materials for the selection. Post of Principal is a selection post and therefore the mere fact that the petitioner has got more service than the fifth respondent in the higher secondary school as such is of no consequence. . In the above mentioned reason we find no reason to take a different view from that of the learned single judge. The appeal therefore lacks merits and it is accordingly dismissed.

Sd/-
K.S. RADHAKRISHNAN
Judge

Sd/-
ANTONY DOMINIC
Judge

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